

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. <u>2:21-cv-12928-DPH-JJCG</u>
)	
v.)	Judge Denise Page Hood
)	Mag. Judge Jonathan J.C. Grey
)	
DIESEL OPS LLC, <i>et al.</i>,)	
)	
Defendants.)	
)	

FINAL JUDGMENT

The United States of America, on behalf of the Environmental Protection Agency, filed a Complaint against Diesel Ops LLC (“Diesel Ops”), Orion Diesel LLC (“Orion Diesel”) (collectively the “Corporate Defendants”), and Nicholas Piccolo alleging violations of Sections 203, 204, 205, and 208 of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7522–24 and 7542(a). *See* ECF No. 1. The Complaint also seeks a money judgment against Nicholas Piccolo relating to fraudulent transfers made in violation of the Federal Debt Collection Procedures Act (“FDCPA”), 28 U.S.C. §§ 3001-3308. *See id.*

Following the Clerk’s Entry of Default against each of the Defendants, the United States filed its Motion for Default Judgment pursuant to Fed. R. Civ. P.

Rule 55(b)(2) (the “Motion”), its Memorandum in Support of the Motion, and the declarations of Ethan Chatfield and Dan Leistra-Jones on May 31, 2022. *See* ECF Nos. 16 - 19.

The Court found that the Memorandum in Support of the Motion and the declarations of Ethan Chatfield and Dan Leistra-Jones properly supported the allegations in the Complaint and the requested penalties in the Motion and entered an *Order Granting the Motion for Default Judgment* on July 22, 2022. *See* ECF No. 28.

Based on the foregoing and the record in this case, and for good cause shown:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

(1) a civil penalty of \$10,000,000 is assessed, jointly and severally, against Defendants Diesel Ops and Orion Diesel for knowingly manufacturing, selling, offering to sell, or installing, parts or components intended for use with, or as a part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations in violation of the Clean Air Act. 42 U.S.C. § 7522(a)(3)(B);

(2) a civil penalty of \$455,925 is assessed against Nicholas Piccolo for his failure to respond to an information request issued pursuant to Section 208 of the Clean Air Act, 42 U.S.C. § 7542;

(3) transfers of \$979,818 made to Mr. Piccolo by the Corporate Defendants were made with fraudulent intent to hinder, delay, or defraud a creditor in violation of the FDCPA, 28 U.S.C. § 3304. Judgment for \$979,818 is entered against Nicholas Piccolo and in favor of the United States. Payment of this \$979,818 by Mr. Piccolo to the United States shall partially satisfy the \$10 million judgment owed by the Corporate Defendants to the United States (*see* Subparagraph (1) above); and

(4) Nicholas Piccolo, Diesel Ops, Orion Diesel, and all persons acting for or on their behalf, are hereby enjoined from: (1) manufacturing, selling, offering to sell, transferring, or installing the twelve products (or components) identified in Exhibit 1 of this Order, or any materially similar products; and (2) selling, offering for sale, or transferring any intellectual property associated with the twelve products identified on Exhibit 1, or any materially similar products, where a principal effect of such part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with Title II of the CAA.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph shall bind Nicholas Piccolo, Diesel Ops, Orion Diesel and all persons acting for or on their behalf who receive a copy of this Final Judgment by first class mail, Federal Express, email, or otherwise receive actual notice of this Final Judgment.

IT IS SO ORDERED.

s/Denise Page Hood

Denise Page Hood
United States District Judge

Dated: August 29, 2022

Exhibit 1

<u>Product Name</u>	<u>Vehicle Make</u>	<u>Type of Defeat Device</u>
Diesel Ops EGR Delete Kit w/High Flow Intake for Ford Powerstroke 6.4L 2008-2010.	Ford	Hardware
Orion Diesel EGR Delete Kit w/High Flow Intake for Ford Powerstroke.	Ford	Hardware
Diesel Ops EGR & Cooler Delete Race Kit Stock Pyro for Ford Powerstroke 6.7L 2011-2014	Ford	Hardware
Orion Diesel EGR & Cooler Delete Race Kit Stock Pyro for Ford Powerstroke	Ford	Hardware
Diesel Ops EGR Delete Kit for Dodge Cummins 6.7L 2010-2016	Dodge	Hardware
Flo-Pro 4" DPF & Cat Race Delete Pipe Aluminized for Ford Powerstroke 6.4L 2008-2010	Ford	Hardware
Orion Diesel 4" DPF & CAT Aluminized Delete Pipe for Ford Powerstroke	Ford	Hardware
MBRP 4" Cat/DPF Delete Aluminized Pipe for Ford Powerstroke 6.7L 2011-2017	Ford	Hardware
Orion Diesel 4" DPF & CAT Aluminized Delete Pipe for Ford Powerstroke	Ford	Hardware
H&S Performance Mini Maxx Race Tuner Programmer	Various	Software
DPF-R 4.0 DPF Delete Programmer for Ford Powerstroke 6.4L 2008-2010	Ford	Software
DPF-R 4.0 Plus DPF Delete Programmer for Ford Powerstroke 6.4L 2008-2010	Ford	Software